

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
TYLER DIVISION**

WILLIE T. OLIVER,

Plaintiff,

v.

JOSH DECUR, et al.,

Defendants.

§  
§  
§  
§  
§  
§  
§  
§  
§  
§  
§

Case No. 6:20-cv-245-JDK-KNM

**ORDER ADOPTING REPORT AND RECOMMENDATION  
OF THE UNITED STATES MAGISTRATE JUDGE**

Plaintiff Willie T. Oliver, proceeding pro se, brings this civil rights lawsuit under 42 U.S.C. § 1983. Plaintiff sued two Tyler police officers over the legality of his arrest and two Smith County Jail officers for claiming that Plaintiff assaulted them. He asks that his conviction be overturned and the jail officers imprisoned. The case was referred to United States Magistrate Judge K. Nicole Mitchell pursuant to 28 U.S.C. § 636.


On October 19, 2020, Judge Mitchell issued a Report and Recommendation recommending that the Court dismiss this case until Plaintiff can show that his conviction has been overturned, expunged, or otherwise set aside. Docket No. 5; *see also Heck v. Humphrey*, 512 U.S. 477, 486 (1994). The Magistrate Judge also observed that Plaintiff has no constitutional right to have the jail officers criminally prosecuted and that such relief is not available through a civil rights lawsuit under 42 U.S.C. § 1983.

Where a party timely objects to the Report and Recommendation, the Court reviews the objected-to findings and conclusions of the Magistrate Judge de novo. 28 U.S.C. § 636(b)(1). In conducting a de novo review, the Court examines the entire record and makes an independent assessment under the law. *Douglass v. United Servs. Auto. Ass'n*, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*), *superseded on other grounds by statute*, 28 U.S.C. § 636(b)(1) (extending the time to file objections from ten to fourteen days).

Plaintiff objected to the Report, but his objections generally reiterated the facts of his case and did not address the Magistrate Judge's proposed findings, conclusions, or recommendations.

Having conducted a de novo review of the record in this case and the Magistrate Judge's Report, the Court has determined that the Report of the Magistrate Judge is correct, and Plaintiff's objections are without merit. Accordingly, the Court hereby **ADOPTS** the Report of the Magistrate Judge (Docket No. 5) as the opinion of the District Court. Plaintiff's claims are **DISMISSED** with prejudice until Plaintiff can show that the conviction resulting from the challenged arrest has been overturned, expunged by executive order, declared invalid in a state collateral proceeding, or called into question through the issuance of a federal writ of habeas corpus.

So **ORDERED** and **SIGNED** this 19th day of February, 2021.

  
JEREMY D. KERNODLE  
UNITED STATES DISTRICT JUDGE